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Elimination of unilateral extraterritorial coercive economic measures as a means of political and economic compulsion

Elimination of unilateral extraterritorial coercive economic measures as a means of political and economic compulsion

Report of the Secretary-General

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I. Introduction

1. By resolution 55/6 of 26 October 2000, entitled "Elimination of unilateral extraterritorial coercive economic measures as a means of political and economic compulsion", the General Assembly requested the Secretary-General to prepare a report on the implementation of the resolution and to submit it to the Assembly for consideration at its fifty-seventh session.

2. Pursuant to the above-mentioned request, the Secretary-General, by a note verbale dated 11 March 2002, invited Governments to provide any information that they might wish to contribute to the preparation of the report.

3. The present report reproduces the replies received from Governments as at 28 June 2002. Further replies will be reproduced in addenda to the present document.

II. Replies received from Governments

Argentina

[Original: Spanish]
[25 April 2002]

1. On 5 September 1997, the Government of the Argentine Republic promulgated Act No. 24.871, under which foreign laws that, directly or indirectly, are designed to restrict or prevent the free exercise of trade and the movement of capital, assets or persons to the detriment of any country or group of countries, shall not be applicable or produce juridical effects of any kind in the territory of Argentina.

2. Article 1 of the Act provides that foreign laws that seek to produce extraterritorial juridical effects, through the imposition of an economic blockade or the limitation of investments in a given country, in order to bring about a change of government in a country or affect its right of self-determination, shall also be absolutely inapplicable and have no juridical effects.

3. Argentina's affirmative vote in the adoption of General Assembly resolution 55/6 is thus consistent with the country's position on the elimination of such measures.

Ecuador

[Original: Spanish]
[17 May 2002]

Ecuador wishes to reiterate, as on previous occasions, that it has not adopted, and will not adopt, laws that infringe upon the freedom of international trade, or that contain coercive economic measures as a means of political and economic compulsion, or that violate the principle of non-intervention in the internal affairs of other countries. These norms appear in the Constitution of Ecuador and therefore guide each and every legal, political and economic action of the country, at both the domestic and international levels.

Japan

[Original: English]
[31 May 2002]

1. The Government of Japan is not imposing any of the economic measures referred to in General Assembly resolution 55/6, and is not subject to such measures.

2. The Government of Japan takes the position that unilateral economic measures that are taken as the result of extraterritorial application of domestic laws are contrary to international law, and thus unacceptable. Based on this position, it voted in favour of the above-mentioned resolution.

Lao People's Democratic Republic

[Original: English]
[10 June 2002]

The Government of the Lao People's Democratic Republic upholds strictly the principles of peaceful coexistence, respect for national independence, sovereignty, self-determination and non-interference in the internal affairs of other countries. It expresses its concern over the negative impact of unilaterally imposed extraterritorial coercive economic measures on trade, financial and economic cooperation at all levels. The Lao Government refuses to recognize the unilateral extraterritorial law enacted and the imposition of penalties on corporations and nationals of other countries by any country. Such law and measures are contrary to the principles and norms of

international law and the Charter of the United Nations.

Mali

[Original: French]
[24 May 2002]

1. The Government of the Republic of Mali firmly condemns the use of unilateral extraterritorial coercive measures as a means of political compulsion. The use of such measures constitutes a flagrant violation of the norms of international law, in particular in relation to freedom of trade.

2. The Government of Mali believes that States should refrain from resorting to unilateral coercive measures. It is therefore convinced that the international community should adopt, as a matter of urgency, effective measures to eliminate the imposition against developing countries of unilateral extraterritorial coercive measures that are not authorized by the competent bodies of the United Nations or that do not conform to the principles of international law as set forth in the Charter of the United Nations, and that are contrary to the fundamental principles of the international trade system.

3. The Government is opposed to the adoption of unilateral extraterritorial coercive measures by any country in order to exert pressure with a view to changing a political or economic situation that is not within its territorial jurisdiction. In this respect, it reaffirms that every State has the inalienable right to economic, social and cultural development and the right to choose freely the political, economic and social system that it deems most conducive to the well-being of its population, in accordance with its national plans and policies.

Libyan Arab Jamahiriya

[Original: Arabic]
[20 June 2002]

1. The Libyan Arab Jamahiriya reaffirms its condemnation and firm rejection of any measures that bar any State from exercising its full political rights in choosing its political, economic and social systems, because this constitutes a flagrant violation of the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, adopted by the General Assembly on 24 October 1970.

2. The General Assembly has on more than one occasion expressed its concern at the extraterritorial laws enacted by certain States, which violate the sovereignty of other States and have a negative impact on the interests of corporations and their personnel. All of the instruments and resolutions adopted by the General Assembly in this regard affirm that the enactment of such laws is incompatible with the principles of the Charter of the United Nations, constitutes a flagrant violation of the norms of international law, has an extremely negative impact on the economies of developing and developed countries alike and poses an obstacle to the endeavours of the international community aimed at constructive cooperation and mutually beneficial exchange.

3. The General Assembly has also affirmed that the enactment of such laws constitutes interference in the internal affairs of States and a violation of their sovereignty, and is incompatible with international instruments, including the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, adopted by the General Assembly in resolution 2131 (XX) of 21 December 1965, and the Charter of Economic Rights and Duties of States, proclaimed by the Assembly in resolution 3281 (XXIX) of 12 December 1974. Both of these instruments state that no State may use or encourage the use of economic, political or any other type of measure to coerce another State in order to obtain from it the subordination of the exercise of its political rights.

4. By adopting such resolutions and instruments, the General Assembly has given clear expression to the overwhelming rejection by Member States of coercive measures and the strength of their opposition to the use of such measures against other States as a means of compulsion and of forcing them to accept policies that are not appropriate for or satisfactory to them. An international consensus has developed with regard to the need for a halt to be put to such measures, which are adopted by certain States with a view to pursuing their foreign policies and which are employed in their dealings with other States.

5. The States concerned should comply with and respect the will of the international community, as expressed in the resolutions, declarations and instruments adopted at various levels within the United Nations and in other bodies. However, the measures that they have taken and the practices that they pursue demonstrate that their intentions are quite different. The United States of America, while not alone, is the State that has greatest recourse to this type of measure, has ignored international demands and continued its policy of imposing sanctions and embargoes: in mid-1996, the Senate adopted the D'Amato-Kennedy Act, which penalizes foreign companies that invest in the Libyan oil sector.

6. As was to be expected, the promulgation of that Act was widely greeted with unease and disapproval, and, in its resolution 55/6 of 26 October 2000, the General Assembly expressed its deep concern at the negative impact of unilaterally imposed extraterritorial coercive economic measures and called for the immediate repeal of those unilateral laws. It also called upon all States not to recognize unilateral extraterritorial coercive economic measures or legislative acts imposed by any State.

7. In addition, other international organizations, including the Organization of the Islamic Conference, the League of Arab States and the Group of 77 and China, have openly rejected coercive measures, while the Assembly of Heads of State and Government of the Organization of African Unity have demanded the elimination of such measures. Meetings of the Movement of Non-Aligned Countries at the heads of State and Government and ministerial levels have condemned such laws and the insistence of some States on applying and reinforcing them unilaterally; have affirmed that such measures as the D'Amato-Kennedy Act represent a violation of international law and the Charter of the United Nations; and have called upon the international community to take effective measures to halt this tendency.

8. The United States of America should have responded to the resolutions and calls of States, regional organizations and the General Assembly, which, in its resolution 55/6, expressed its deep concern at the negative impact of coercive measures and the serious obstacles posed to the freedom of trade at the regional and international levels. The Assembly also reiterated its call for the repeal of unilateral extraterritorial laws that impose sanctions on corporations and nationals of other States. However, the United States did quite the opposite: not only did it ignore the calls made by States and international and regional organizations for the repeal of the coercive economic measures provided for in the D'Amato-Kennedy Act but it proceeded to apply those measures. On 3 January 2000, the President of the United States addressed letters to the Speaker of the House of Representatives and the President of the Senate, notifying them of the extension beyond 7 January 2000 of the sanctions imposed on the Libyan Arab Jamahiriya, pursuant to the national emergency declared on 7 January 1986. The most conspicuous factor that clearly demonstrates the United States Administration's disdain for the will of the international community was the decision issued by it to the Committee on Foreign Relations of the United States House of Representatives on 22 June 2002, extending the D'Amato-Kennedy Act for five more years.

9. The United States of America claimed that the promulgation of Act H.R. 3107, known as the D'Amato-Kennedy Act, was in response to the failure by the Libyan Arab Jamahiriya to comply with Security Council resolutions 731 (1992), 748 (1992) and 883 (1993), and was aimed at halting its attempts to acquire weapons of mass destruction and maintaining economic pressure on Libya in order to restrict its ability to finance international terrorism.

10. In fact, there is not a grain of truth in the pretexts used by the United States Administration to extend the imposition of its coercive measures. The Libyan Arab Jamahiriya has carried out in full the demands of the Security Council in its resolutions, as was affirmed by the Secretary-General in his report submitted to the Security Council pursuant to paragraph 16 of resolution 883 (1993) and paragraph 8 of resolution 1192 (1998) (S/1999/726). Both directly and through regional and international organizations, such as the Organization of African Unity, the Organization of the Islamic Conference, the League of Arab States and the Movement of Non-Aligned Countries, States have recognized this compliance.

11. The claim that the D'Amato-Kennedy Act was intended to deprive the Libyan Arab Jamahiriya of a resource that it used to finance international terrorism is completely groundless, unsubstantiated by the evidence and the facts. Not only has Libya frequently and repeatedly condemned international terrorism in all

its forms and whatever its origin, but it is also a party to most of the international conventions on the elimination of international terrorism.

12. The Libyan Arab Jamahiriya is so concerned to ensure that this phenomenon is suppressed that, in 1992, it called for the holding of a special session of the General Assembly to prepare an effective programme to combat terrorism, including international terrorism, of which the Libyan people have been victims.

13. The United States of America appears to imagine that Libya is attempting to manufacture weapons of mass destruction and, eager to restrict the proliferation of such weapons, wishes to obstruct those endeavours by means of the D'Amato-Kennedy Act. The United States should remember that Libya is a party to most of the international disarmament conventions, foremost among those being the Treaty on the Non-Proliferation of Nuclear Weapons. We must ask ourselves which country it is that stockpiles nuclear weapons: is it not the United States of America which has the largest arsenal of such weapons and is continually seeking to increase their effectiveness?

14. One of the misapprehensions informing the reasoning behind the D'Amato-Kennedy Act is that Libyan behaviour represents a threat to the national security of the United States. The international community certainly recognizes the spurious nature of this claim: it is inconceivable that Libya, with its small population and limited resources, could constitute a threat of any kind whatsoever to the security of the United States, which is thousands of miles away. On the contrary, the Libyan Arab Jamahiriya, which gained independence through the 1969 revolution, clearing its soil of foreign military bases and achieving self-determination and control over its own resources, has, ever since, been subject to United States threats and coercive practices on a number of fronts, including the following:

(a) In 1981, the United States Government closed the Libyan People's Bureau in Washington, D.C., and imposed restrictions on the movement of members of the Permanent Mission of the Socialist People's Libyan Arab Jamahiriya to the United Nations in New York. At the same time, the United States Government cancelled the residency permits of Libyan students studying in the United States and imposed a complete embargo on American exports to Libya, including irrigation equipment. It also halted all projects being undertaken in Libya in which American companies were in any way involved;

(b) In 1982, the United States Administration banned the sale to Libya of American civilian aircraft or of any other aircraft in the construction of which American technology was used. With effect from 1986, it banned the export to the Libyan Arab Jamahiriya of any American commodities or technology, including the spare parts essential to ensuring the safety of civilian aircraft and aviation, and imposed an embargo on air traffic between the Libyan Arab Jamahiriya and the United States of America and on the sale of tickets for air travel that included the Libyan Arab Jamahiriya in the itinerary. In that same year, the President of the United States signed an executive order to freeze all Libyan assets and property in the United States, including the assets of official organizations and institutions and assets held or managed by Americans or in American offshore banks. More than US$ 1 billion was frozen as a result;

(c) The United States Government carried out media campaigns aimed at obfuscating the position of the Libyan Arab Jamahiriya and blackening its international reputation. United States fleets in the Mediterranean Sea carried out acts of provocation and manoeuvres off the Libyan coast, which culminated in 1986, when the United States unleashed a military and naval onslaught inside Libyan territorial waters and on the main cities, in particular Tripoli and Benghazi, which caused scores of fatalities and an even greater number of injuries, in addition to the destruction of property.

15. In view of the above, the only explanation for the promulgation of the D'Amato-Kennedy Act is that it is just another chapter in the series of United States operations against the Libyan Arab Jamahiriya. The most alarming aspect of it is that it intensifies the action that has been taken against the Libyan people by the United States of America for almost two decades. It provides for the imposition of sanctions on corporations and nationals of other States that work with the Libyan Arab Jamahiriya in the field of oil and reinforces the embargo that the United States has imposed on the Libyan Arab Jamahiriya in this respect since 1981, when the President of the United States signed an executive order banning the export of equipment, machinery, materials, spare parts and any American technology for use in the production of Libyan oil. The intention was to destroy this sector

completely, and it is easy to appreciate just how devastating the effect of these measures was on a country in which oil is the principal source of national revenue and which provides the main funding for economic and social development plans.

16. These examples demonstrate the effects accruing from implementation of the provisions of the D'Amato-Kennedy Act, which is the subject of General Assembly resolutions 51/22, 53/10 and 55/6. They also demonstrate the other effects of United States practices against the Libyan people, including denying them access to knowledge, technology and the benefits of scientific development, confiscating their property, preventing them from implementing vital projects and putting obstacles in the path of economic cooperation with other countries by frightening off and terrorizing their corporations and nationals in order to prevent them from investing in the Libyan Arab Jamahiriya. While drawing attention yet again to the dangers of these measures, the Libyan Arab Jamahiriya repeats its appeal to the international community, through the General Assembly and the other international organizations, to resolutely oppose United States aims in promulgating the D'Amato-Kennedy Act, or any other extraterritorial coercive economic measures that have been adopted in violation of the Charter of the United Nations and other bases of international law.

17. The Libyan Arab Jamahiriya also urges the States of the world to make clear to the State which promulgated this Act and insists that it continue to be implemented that this is a glaring error that must not continue. That State's sovereignty is not superior to that of any other State and the international community has not delegated to it the administration of global affairs through its domestic legislation.

18. The Libyan Arab Jamahiriya again urges the international community strongly to reject the imposition of laws and prescriptions which have extraterritorial implications and all other forms of coercive economic measures, including unilateral sanctions against developing countries, and reiterates the urgent need for them to be repealed forthwith. The Libyan Arab Jamahiriya stresses that measures of this type are not merely destructive of the principles enshrined in the Charter of the United Nations and international law, but also pose a grave threat to freedom of trade and investment. The Libyan Arab Jamahiriya urges the international community not to recognize or implement such measures.

Syrian Arab Republic

[Original: Arabic]
[6 June 2002]

1. The Syrian Arab Republic, on the basis of its position of principle on the agenda item entitled "Elimination of unilateral extraterritorial coercive economic measures as a means of political and economic compulsion", voted in favour of resolution 55/6, in which the General Assembly expressed its deep concern at the negative impact of unilaterally imposed extraterritorial coercive economic measures and called upon all States not to recognize or apply unilateral extraterritorial coercive measures or laws imposed by any State, which were contrary to recognized principles of international law.

2. In adopting that resolution, the General Assembly reiterated its call for the repeal of such laws and reaffirmed that all peoples have the right to self-determination and that, by virtue of that right, to freely determine their political status and freely pursue their economic, social and cultural development.

3. In this connection, we draw attention to the fact that the Heads of State or Government of Non-Aligned Countries, at their meeting held in Durban, South Africa, expressed the need to eliminate coercive measures and legislation as contrary to international law, the principles and purposes of the Charter of the United Nations and the norms and principles governing peaceful relations among States, and urged States applying unilateral coercive measures to put an immediate end to those measures.

4. We also draw attention to the Declaration of the South Summit, held at Havana, in which the Heads of State and Government of the member States of the Group of 77 and China stated that they firmly rejected the imposition of laws and regulations with extraterritorial impact and all other forms of coercive economic measures. They emphasized that such actions not only undermined the principles enshrined in the Charter of the United Nations and international law, but also severely threatened the freedom of trade and investment. They therefore called on the international community neither to recognize these measures nor to apply them.